1942.

File No. O. Tolls on Roads and Bridges/42

Legal DEPARTMENT

A BRANCH

K

Subject:—

Opinion under the

Tolls on Roads and Bridges

Act, 1875.

R 3/E

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1942. **File No.** C. Tolls on Roads and Bridges/42

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File No. C. Tolls on Roads & Bridges/42

Std. Sectt. Slip 41 B e.

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C O N T E N T S.

Legal Department File No. O. Tolls on Roads and Bridges /1942.

Sr. No.	Compilation No.	Subject	Pages
	O Tolls on Roads and Bridges 1942.	Opinions under the Tolls on Roads and Bridges Act 1875.	
1.	C.No. 5874 11.10.41. C.No. 169 6.1.1942.	Whether B.B.& C.I.Rly Co. can charge penalties under sec. 8 read with Sec. 4 from foot passengers crossing footpath on the new Rly bridge.	

C.A.H.
4.5.56.

715

Office of the F.L.A.

It appear necessary to ascertain in the first instance under which statutory provisions the levy of tolls on the Tapti bridge has been sanctioned. In his letter at p. 29 ante the Commissioner seems to suggest that the tolls were levied under section 51(f) of the Indian Railways Act, 1890. That section, however, does not apply to a company for which the Indian Guaranteed Railways Act, 1879 (42 and 43 viot. chap. 41) provides and the B.B.& C.I. Railway is one of such companies (see the schedule to 42 and 43 viot. ch. 41). Consequently the Commissioner's suggestion does not appear to be correct. Section 4(a) of the Indian Guaranteed Railways Act provides that a guaranteed company may from time to time with the sanction of the Secretary of State for India in Council taken tolls in respect of any bridge or ferry used in connection with their railway It is not at known whether the B.B.& C.I.Rly levied tolls in the present case under the aforesaid provision with the sanction of the Secretary of State for India in Council. P.W.D. is requested to clarify the position and to forward to this office all the necessary papers relating thereto.

O.C. Sd/-R.T.Kerkarrrr

for Remembrancer of Legal Affairs.

Sd -
10-10
S. A.S.

U.R. to the P.W.D.No. 8674, dated the 11th October 41.

Office of the R.L.A.

The fo tpath overthe new Tapti Railway Bridge was constructed at the cost of the Bombay Government and the B.B.& C.I.Railway is permitted by the Government to levy a toll for the purpose of recouping the maintenance charges. The toll appears to have been levied under the provisions of the Tolls on Roads and Bridges Act, 1875 and neither section 51(f) of the Indian Railways Act. 1890 nor the Indian Guaranteed Railways Act 1879 has any application to the facts of the present case. Although the Tolls on Roads and Bridges Act. 1875 authorises the levy of a toll on persons crossing a bridge on foot it does not provide for any special levy or fine for refusal or non-payment of the toll by the defaulting person. Consequently in the absence of any specific provision in the Act it will not be legally feasible to prescribe any special penalty under section 8 (e.g. a levy or fine of 4 annas as suggested by the P.W.D. in para. 4 at page 4 ante) for refusal or non-payment of the toll by a foot passenger. The expression "a statement of the penalties for refusing to pay the tolls and for taking any unlawful toll" used in section 8 of the Tolls on Roads and Bridges Act. 1875, manifestly refers to the provisions of sections 4 and 7 of the Act and for the purposes of compliance with section 8 , it will be enough if if the a medure to the table of the to-lls referred referred to therein contains the requisite statement by a reproduction of the provisionsof sections 4 and 7 of the Act.

O.C. Sd/-P.B.Nene.
7/1
Remembrancer of Legal Affairs.

U.O. to P.W.D.. No. 16, dated the 8th January 1942.